

STATE OF WISCONSIN**CIRCUIT COURT****MILWAUKEE**

Whitnall-Summit Company, LLC vs. City of West Allis

**Electronic Filing
Notice**

Case No. 2023CV004438

Class Code: Money Judgment

FILED

06-15-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV004438

Honorable Thomas J.

McAdams-07

Branch 7

CITY OF WEST ALLIS
7525 W. GREENFIELD AVENUE
WEST ALLIS WI 53214

Case number 2023CV004438 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

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If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

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Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4140.

Milwaukee County Circuit Court
Date: June 15, 2023

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CITY OF WEST ALLIS
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STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

WHITNALL-SUMMIT COMPANY, LLC
6737 W. WASHINGTON STREET, STE. 2220
WEST ALLIS, WISCONSIN 53214

PLAINTIFF,

MONEY JUDGMENT: 30301
(OVER \$10,000)

V.

CITY OF WEST ALLIS
7525 W. GREENFIELD AVENUE
WEST ALLIS, WISCONSIN 53214

DEFENDANT.

SUMMONS

THE STATE OF WISCONSIN, TO THE DEFENDANT NAMED ABOVE:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 901 North 9th Street, Milwaukee, Wisconsin 53233, and to Alan Marcuvitz of the law firm of von Briesen & Roper, s.c., plaintiff's attorney whose address is 411 East Wisconsin Avenue, Suite 1000, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated at Milwaukee, Wisconsin this 15th day of June, 2023.

VON BRIESEN & ROPER, s.c.
Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN 1007942
Craig M. Salzer, SBN 1026264
Katie L. Bireley, SBN 1106622

P.O. ADDRESS:

411 E. Wisconsin Avenue, Suite 1000

Milwaukee, Wisconsin 53202

PH: 414-287-1401 (AM)

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WEST ALLIS, WISCONSIN 53214

DEFENDANT.

COMPLAINT

Plaintiff, Whitnall-Summit Company, LLC (hereinafter “Whitnall”) by its undersigned counsel, von Briesen & Roper, s.c., for its Complaint against Defendant, City of West Allis (hereinafter, the “City”), alleges as follows:

NATURE OF ACTION AND PARTIES

1. This action is brought under Wis. Stat. § 74.37(3)(d) for a refund of excessive real estate property taxes to be imposed on Whitnall by the City for the tax year 2023, plus statutory interest, with respect to a parcel of real property located at 6737 W. Washington Street in the City (the “Property”).

2. Whitnall-Summit Company, LLC is a foreign limited liability company, authorized to operate in Wisconsin, with its principal office in Suite 2220 in the Property.

3. Whitnall is the owner of the Property and is responsible for the payment of real estate property taxes and the prosecution of property tax disputes involving the Property and is authorized to bring this action in its own name.

4. The City is a body corporate and politic, organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 W. Greenfield Avenue, West Allis, Wisconsin.

5. The Property is identified on the City's tax records as Parcel Number 439-0001-031.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over the City pursuant to Wis. Stat. § 801.05(1).

7. Venue is appropriate in Milwaukee County pursuant to Wis. Stat. § 801.50(2)(a).

BACKGROUND FACTS

8. For 2022, property tax was imposed on property in the City at the mill rate of \$28.231353 per \$1,000 of assessed value. The 2023 mill rate is not yet known.

9. For 2019, the City and Whitnall agreed that the full value of the Property was \$57,892,000 and that the 2019 full-value assessment would be the same amount.

10. For 2023, the City's Assessor set the assessment of the Property at \$57,892,000, as of January 1, 2023.

11. Whitnall appealed the 2023 assessment of the Property by timely filing an objection with the City, pursuant to Wis. Stat. § 70.47(16), and otherwise complying with all requirements of Wis. Stat. § 70.47.

12. On April 26, 2023, the Board of Review waived the hearing and sustained the 2023 assessment at \$57,892,000, a copy of which is attached hereto and incorporated herein as Exhibit A.

13. Pursuant to Wis. Stat. § 70.47(8m), Whitnall has timely commenced this action within sixty days of receipt of the notice of hearing waiver.

14. Based on the City's 2022 tax rate and 2023 assessment of the Property herein described, the City will impose a property tax of \$1,634,369.49 on the Property. The exact proposed property tax for 2023 will not be known until the 2023 mill rate has been determined.

FIRST CLAIM FOR RELIEF
VALUE AND ASSESSMENT

15. The allegations of paragraphs 1-14 are incorporated as if fully realleged herein.

16. The value of the Property as of January 1, 2023 was no higher than \$53,880,700, which value was derived from the net income generated by the Property. The specific amount of the value of the Property will be set forth in an amended Complaint, upon receipt by Whitnall of an appraisal, already commissioned, but not yet received.

17. Based on continuation of the 2022 71.79% ratio, the asserted full value of the Property will be \$80,640,800, and the assessment will be \$57,892,000, instead of \$38,681,000.

18. As a result, the 2023 full value of the Property is excessive by approximately \$26,760,058 and the assessment will be excessive by \$19,211,000.

SECOND CLAIM FOR RELIEF
UNIFORMITY

19. The allegations of paragraphs 1-18 are incorporated as if fully realleged herein.

20. The 2022 general level of assessment for the City was 71.79%. The 2023 general level of assessment is not yet known, but will be lower than 71.79%.

21. Properties valued by the Wisconsin Department of Revenue (hereinafter “DOR”) within the City were assessed for 2022 at 71.79% of their full value and, will be assessed at no more than 71.79% of their full value, while the Property has been, and will continue to be valued and assessed at more than 100% of its full value and more than 100% of its correct assessed value.

22. The 2023 assessment of the Property will not be uniform with the assessment of other properties in the City, and therefore the City has violated the Uniformity Clause of the Wisconsin Constitution, Article VIII, § 1.

23. The 2023 assessment of the Property should be equal to its final determined value multiplied by the 2023 general level of assessment in the City, to achieve uniformity with other city properties.

WHEREFORE, Whitnall requests that the Court enter judgment as follows:

A. For a determination that the 2023 assessment of the Property is not uniform with the assessment of other properties in the City and is in violation of the Wisconsin Constitution;

B. For an order directing the City to reduce Whitnall’s 2023 assessment to an amount equal to its full value multiplied by the 2023 assessment ratio.

D. For an award of all litigation costs incurred by Whitnall in this action, including the reasonable fees of its attorneys; and

E. For such other and further relief as the Court deems appropriate and just.

Dated at Milwaukee, Wisconsin this 15th day of June, 2023.

VON BRIESEN & ROPER, s.c.
Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN 1007942
Craig M. Salzer, SBN 1026264
Katie L. Bireley, SBN 1106622

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City Clerk
City Clerk's Office
clerk@westalliswi.gov
414.302.CITY

OFFICE OF CITY CLERK
CITY OF WEST ALLIS, WISCONSIN

Wednesday, April 26, 2023 - **REVISED Monday, May 1, 2023**

von Briesen & Roper S.C.
411 E. Wisconsin Avenue, Ste. 1000
Milwaukee, WI 53202

RE: Notice of Decision:

**Whitnall Summit Co. LLC
City of West Allis Board of Review 2023 Property Assessment Objection Decision**

The City of West Allis Board of Review (BOR) convened on April 26, 2023, and approved the Assessor's request to waive the hearing for Objection to Real Property Assessment, allowing you to appeal directly to Circuit Court, pursuant to Wis. Stat. §70.47(8m) for the following parcel:

PARCEL #	PROPERTY OWNER	ASSESSED VALUE
439-0001-031	Whitnall Summit Co.	\$57,892,000

As a result, a hearing will not be scheduled before the BOR for your objections. By operation of law and pursuant to Wis. Stat. § 70.47(8m), the assessed values remain as identified above. The taxpayer has 60 days from the notice of hearing waiver in which to commence an action under §70.47(8m).

If you have any further questions, please send an email to clerk@westalliswi.gov.

Respectfully,

Rebecca Grill
City Administrator/Clerk

Delivered via email to craig.salzer@vonbriesen.com & alan.marcuvitz@vonbriesen.com